

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 8798 of 1995

Between:

The Divisional Engineer Electrical Operation
A.P. State Electricity Board Nirmal
Adilabad district

..... PETITIONER

AND

- 1 Syed Abdul Quader alias Abdul Quadar s/o Abdul Rasheed
r/o h.no.3/44 (post & Mandal) Dilwapur
dist: Adilabad
- 2 The Presiding Officer Industrial Tribunal cum Labour Court
Godavarikhani

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appointment writ, order or direction calling for the records, pertaining to the award dt 31/08/94 made in i.d.no.204/91 on the file of the 2nd respondent and quash as the same is arbitrary, illegal, unjust and contrary to the law

Counsel for the Petitioner: Sri Samineni Kishore (SC FOR APTRANSCO)

Counsel for the Respondent No.: MR.Y.ASHOK RAJ

The Court made the following :

ORAL ORDER:

The award of the Industrial Tribunal-cum-Labour Court, Godavarikhani in I.D.No.204 of 1991 dated 31-8-1994 is subject matter of challenge in this writ petition. The Industrial Tribunal-cum-Labour Court (hereinafter referred to as "the Tribunal") passed a common order in I.D.No.204 and 205 of 1991 filed by the petitioner and one Sri A.Pandari (hereinafter referred to as the workman). In these two I.Ds. the workmen contended that despite their having worked as casual labour and despite their names being found in the list of working candidates prepared by the A.P.S.E.B. and despite a notification being issued stating that they were being sent for training the workmen were not given orders of appointment..

The Tribunal framed the following issue for consideration:

"Whether the petition could be allowed, whether request of the petitioner could be accorded to and whether order for reinstatement of the petitioner passed"

Before the Tribunal, the respondent-workman examined himself as W.W.1 and filed Ex.W.1, as exhibit. No evidence was let in on behalf of the petitioner-management nor were any documents marked as exhibits. However, in the other I.D.No.205 of 1991 filed by A.Pandari, the petitioner management examined two witnesses, the Assistant Accounts Officer and the Divisional Engineer (Operations), Adilabad and in addition marked Exs.M-1 to M13 as exhibits. The Tribunal extracted the deposition of M.W.1 in I.D.No.205 of 1991 on behalf of the petitioner-management. While the witness deposed that the signatures of the respondent workman was not one found in the voucher, the witness admitted that they had not sent the disputed signatures for examination of the handwriting expert. The witness further deposed that he did not know whether the name written was that of the respondent workman or not. The Tribunal, on appreciation of evidence and after taking note of Ex.W-1, notification published in news paper on 3-3-1989 calling for eligible persons including the respondent-workman to appear for interview for appointment as helper, held that there was any amount of force and substance in the plea of the workman that he had been unjustifiably deprived of being appointed as helper. As a result, an award was passed directing the petitioner herein to herein the respondent-workman

as helper.

Sri Samineni Kishore, learned counsel for the petitioner submits that this was a case of impersonation and the respondent-workman was different from the person who actually worked with A.P.S.E.B and therefore the award of the Tribunal ought to be set aside. I am afraid I cannot agree. The Tribunal on a detailed appreciation of the evidence on record and on taking note of the fact that the witness examined on behalf of the petitioner management had deposed that the disputed document had not been sent for examination by a handwriting expert, disbelieved this contention of impersonation. This Court under Article 226 of the Constitution of India does not re-appreciate the evidence on record nor does it sit in appeal over finding of fact arrived at by statutory Tribunals, except where the findings are either perverse or are based on no evidence.

It is also contended by Sri Samineni Kishore that the respondent-workman had worked only for a period of 71 days and as such was not eligible to be considered as a casual labour, inasmuch as persons who passed X Class fell under category III and were required to work for a minimum 80 days to be eligible for consideration for appointment to the post of helper. Ex.W-1 is a notification calling upon the persons, referred to therein, to appear for interview, wherein the respondent-workman is shown at Sl.No.45 and the number of days he worked is shown as 103 days, more than the stipulated requirement of 80 days service. This contention of Sri Samineni Kishore cannot also be accepted.

W.P.No.8790 of 1995, filed against the award passed in I.D.No.205 of 1991 (common award having been passed by the Tribunal in both I.D.Nos.204 and 205 of 1991), was dismissed by this Court by order dated 4-3-1999 wherein this Court held that the findings of the Labour Courts based on a proper appreciation of evidence available on record could not be interfered in exercise of jurisdiction under Article 226 of the Constitution of India. It was further held that the findings arrived at by the Tribunal and conclusions reached by it could not be said to be perverse and that the finding as recorded by the Tribunal did not suffer from any error whatsoever and that the Tribunal had not committed any illegality whatsoever in arriving at its conclusions and findings.

The writ petition is accordingly dismissed. No order as to costs.

30-6-2005

ASP

To:

- 1 The Presiding Officer industrial tribunal cum labour court
Godavarikhani
2. Two C.D. copies